

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1597**

**Introduced by Assembly Member Runner**

February 21, 2003

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*An act to amend Section 4180 of the Business and Professions Code, to amend Sections 1200, 1204, 1204.3, 1217, and 1248.1 of, and to add Sections 1204.5 and 1204.6 to, the Health and Safety Code, and to amend Section 14110 of, and to add Sections 14105.19 and 14105.28 to, the Welfare and Institutions Code, relating to health facilities and clinics, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as amended, Runner. Health facilities and clinics.

Existing law provides for the licensure and regulation of health facilities and clinics by the State Department of Health Services. *Under existing law, clinics are outpatient health facilities that provide direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may provide diagnostic or therapeutic services to patients in the home under certain circumstances. Existing law authorizes the licensure of primary care clinics and specialty clinics. Specialty clinics include surgical clinics, chronic dialysis clinics, and rehabilitation clinics.*

~~This bill would state the intent of the Legislature to enact legislation to establish a new licensing category, known as the multiservice ambulatory care center, that would be administered by the department.~~

*This bill would add multispecialty ambulatory care clinics, as defined, to the specialty clinics eligible for licensure under these*

provisions. The bill would authorize a multispecialty ambulatory care clinic to provide any services that may be provided by a primary care clinic or specialty clinic and would require these clinics to provide at least 2 services from the following categories: primary care, ambulatory surgical care, rehabilitation, and chronic dialysis services. The bill would specify the requirements for licensure of these clinics and the requirements for the provision of designated services.

Existing law authorizes designated clinics to provide drugs at wholesale for administration and dispensing, under the direction of a physician, to patients registered for care at those clinics. Also, existing law authorizes only certain settings to maintain an outpatient setting.

This bill would authorize multispecialty ambulatory care clinics to purchase drugs at wholesale and maintain an outpatient setting pursuant to those provisions.

Existing law provides for the Medi-Cal program, administered by the department, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

This bill would require the Medi-Cal program to comply with various requirements with respect to reimbursement for services provided by a multispecialty ambulatory care.

Existing law provides for the licensure and regulation of health facilities, including skilled nursing facilities and general acute care hospitals, by the department.

Existing law authorizes a distinct part of an acute care hospital that provides services to Medi-Cal beneficiaries and is owned by a county, city, or city and county, or a health care district meeting certain requirements to receive, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, supplemental Medi-Cal reimbursement. The reimbursement is made according to a payment methodology based on claims, which are eligible for federal financial participation by the governmental entity that owns the acute care hospital, for skilled nursing services provided to Medi-Cal patients at the eligible facility.

This bill would also authorize a licensed skilled nursing facility that provides services to Medi-Cal beneficiaries and is owned or operated by a county, city, city and county, or health care district meeting certain requirements to receive, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, supplemental Medi-Cal reimbursement according to a payment methodology that would be based on claims which would be eligible for



*federal financial participation by the governmental entity that owns the eligible facility for skilled nursing services provided to Medi-Cal patients at the eligible facility.*

*Existing law requires a medical or health facility to be certified for participation in the Medi-Cal program, and to meet certain requirements, to receive payment for care or services provided under the Medi-Cal program.*

*This bill would provide that a multispecialty ambulatory care clinic shall, upon licensure, be automatically certified to participate in and receive payments under the Medi-Cal program. The bill would also provide that unless otherwise required by applicable federal law, a multispecialty ambulatory care clinic would not be required to be certified to participate in Medicare in order to participate in the Medi-Cal program.*

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. It is the intent of the Legislature to enact~~  
2 ~~legislation to establish a new licensing category, known as the~~  
3 ~~multiservice ambulatory care center, that would be administered~~  
4 ~~by the State Department of Health Services.~~

5 ~~SEC. 2.—~~

6 *SECTION 1. Section 4180 of the Business and Professions*  
7 *Code is amended to read:*

8 4180. (a) (1) Notwithstanding any provision of this chapter,  
9 any of the following clinics may purchase drugs at wholesale for  
10 administration or dispensing, under the direction of a physician, to  
11 patients registered for care at the clinic:

12 (A) A licensed nonprofit community clinic or free clinic, as  
13 defined in paragraphs (1) and (2) of subdivision (a) of Section  
14 1204 of the Health and Safety Code.

15 (B) A primary care clinic owned or operated by a county as  
16 referred to in subdivision (b) of Section 1206 of the Health and  
17 Safety Code.

(C) A clinic operated by a federally recognized Indian tribe or tribal organization as referred to in subdivision (c) of Section 1206 of the Health and Safety Code.

(D) A clinic operated by a primary care community or free clinic, operated on separate premises from a licensed clinic, and that is open no more than 20 hours per week as referred to in subdivision (h) of Section 1206 of the Health and Safety Code.

(E) A student health center clinic operated by a public institution of higher education as referred to in subdivision (j) of Section 1206 of the Health and Safety Code.

(F) A nonprofit multi-specialty clinic as referred to in subdivision (l) of Section 1206 of the Health and Safety Code.

(G) *A multispecialty ambulatory care clinic licensed pursuant to paragraph (5) of subdivision (b) of Section 1204 of the Health and Safety Code.*

(2) The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven years for inspection by all properly authorized personnel.

(b) No clinic shall be entitled to the benefits of this section until it has obtained a license from the board. Each license shall be issued to a specific clinic and for a specific location.

*SEC. 2. Section 1200 of the Health and Safety Code is amended to read:*

1200. (a) As used in this chapter, “clinic” means an organized outpatient health facility ~~which~~ that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and ~~which~~ that may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution ~~which~~ that solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where ~~such~~ the advice, counseling, information, or referrals does not constitute the

practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

**References**

(b) *References* in this chapter to “primary care clinics” shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics, and multispecialty ambulatory care clinics.

SEC. 3. Section 1204 of the Health and Safety Code is amended to read:

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A “community clinic” means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds, or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient’s ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(B) A “free clinic” means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds, or contributions, that may be in the form of money, goods, or services. In a free clinic, there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit

1 corporation exempt from federal income taxation under paragraph  
2 (3) of subsection (c) of Section 501 of the Internal Revenue Code  
3 of 1954 as amended, or a statutory successor thereof, shall operate  
4 a free clinic; provided, that the licensee of any free clinic so  
5 licensed on the effective date of this section shall not be required  
6 to obtain tax-exempt status under either federal or state law in  
7 order to be eligible for, or as a condition of, renewal of its license.  
8 No natural person or persons shall operate a free clinic.

9 (2) Nothing in this subdivision shall prohibit a community  
10 clinic or a free clinic from providing services to patients whose  
11 services are reimbursed by third-party payers, or from entering  
12 into managed care contracts for services provided to private or  
13 public health plan subscribers, as long as the clinic meets the  
14 requirements identified in subparagraphs (A) and (B) of  
15 *paragraph (1)*. For purposes of this subdivision, any payments  
16 made to a community clinic by a third-party payer, including, but  
17 not limited to, a health care service plan, shall not constitute a  
18 charge to the patient. This paragraph is a clarification of existing  
19 law.

20 (b) The following types of specialty clinics shall be eligible for  
21 licensure as specialty clinics pursuant to this chapter:

22 (1) A “surgical clinic” means a clinic that is not part of a  
23 hospital and that provides ambulatory surgical care for patients  
24 who remain less than 24 hours. A surgical clinic does not include  
25 any place or establishment owned or leased, and operated, as a  
26 clinic or office by *each of* one or more physicians or dentists in  
27 individual or group practice, regardless of the name used publicly  
28 to identify the place or establishment, ~~provided, however, that~~  
29 ~~physicians~~. *However, physicians* or dentists may, at their option,  
30 apply for licensure.

31 (2) A “chronic dialysis clinic” means a clinic that provides less  
32 than 24-hour care for the treatment of patients with end-stage renal  
33 disease, including renal dialysis services.

34 (3) A “rehabilitation clinic” means a clinic that, in addition to  
35 providing medical services directly, also provides physical  
36 rehabilitation services for patients who remain less than 24 hours.  
37 Rehabilitation clinics shall provide at least two of the following  
38 rehabilitation services: physical therapy, occupational therapy,  
39 social, speech pathology, and audiology services. A rehabilitation

1 clinic does not include the offices of a private physician in  
2 individual or group practice.

3 (4) An “alternative birth center” means a clinic that is not part  
4 of a hospital and that provides comprehensive perinatal services  
5 and delivery care to pregnant women who remain less than 24  
6 hours at the facility.

7 (5) A “*multispecialty ambulatory care clinic*” means a clinic  
8 that is not part of a hospital, provides to patients who remain less  
9 than 24 hours any services that can be provided by a clinic, as  
10 defined in Section 1200, and provides at least two of the following  
11 categories of services:

12 (A) Primary care, which may include, but is not limited to,  
13 podiatry and dentistry.

14 (B) Ambulatory surgical care.

15 (C) Rehabilitation.

16 (D) Chronic dialysis.

17 SEC. 4. Section 1204.3 of the Health and Safety Code is  
18 amended to read:

19 1204.3. (a) An alternative birth center that is licensed as an  
20 alternative birth center specialty clinic pursuant to paragraph (4)  
21 of subdivision (b) of Section 1204 shall, as a condition of  
22 licensure, and a primary care clinic licensed pursuant to  
23 subdivision (a) of Section 1204 or a multispecialty ambulatory  
24 care clinic licensed pursuant to paragraph (5) of subdivision (b)  
25 of Section 1204 that provides services as an alternative birth center  
26 shall, meet all of the following requirements:

27 (1) Be a provider of comprehensive perinatal services as  
28 defined in Section 14134.5 of the Welfare and Institutions Code.

29 (2) Maintain a quality assurance program.

30 (3) Meet the standards for certification established by the  
31 National Association of Childbearing Centers, or at least  
32 equivalent standards as determined by the state department.

33 (4) In addition to standards of the National Association of  
34 Childbearing Centers regarding proximity to hospitals and  
35 presence of attendants at births, meet both of the following  
36 conditions:

37 (A) Be located in proximity, in time and distance, to a facility  
38 with the capacity for management of obstetrical and neonatal  
39 emergencies, including the ability to provide cesarean section



1 delivery, within 30 minutes from time of diagnosis of the  
2 emergency.

3 (B) Require the presence of at least two attendants at all times  
4 during birth, one of whom shall be either a physician and surgeon  
5 or a certified nurse-midwife.

6 (5) Have a written policy relating to the dissemination of the  
7 following information to patients:

8 (A) A summary of current state laws requiring child passenger  
9 restraint systems to be used when transporting children in motor  
10 vehicles.

11 (B) A listing of child passenger restraint system programs  
12 located within the county, as required by Section 27360 *or* 27362  
13 of the Vehicle Code ~~or Section 27362 of that code.~~

14 (C) Information describing the risks of death or serious injury  
15 associated with the failure to utilize a child passenger restraint  
16 system.

17 (b) The ~~state~~ department shall issue a permit to a primary care  
18 clinic licensed pursuant to subdivision (a) of Section 1204 *or a*  
19 *multispecialty ambulatory care clinic licensed pursuant to*  
20 *paragraph (5) of subdivision (b) of Section 1204* certifying that the  
21 primary care clinic *or multispecialty ambulatory care clinic* has  
22 met the requirements of this section and may provide services as  
23 an alternative birth center. Nothing in this section shall be  
24 construed to require that a licensed primary care clinic *or a*  
25 *multispecialty ambulatory care clinic* obtain an additional license  
26 in order to provide services as an alternative birth center.

27 (c) (1) Notwithstanding subdivision (a) of Section 1206, no  
28 place or establishment owned or leased, and operated, as a clinic  
29 or office by *each of* one or more licensed health care practitioners  
30 and used as an office for the practice of their profession, within the  
31 scope of their license, shall be represented or otherwise held out  
32 to be an alternative birth center licensed by the state unless it meets  
33 the requirements of this section.

34 (2) Nothing in this subdivision shall be construed to prohibit  
35 licensed health care practitioners from providing birth related  
36 services, within the scope of their license, in a place or  
37 establishment described in paragraph (1).

38 SEC. 5. *Section 1204.5 is added to the Health and Safety*  
39 *Code, to read:*



1     1204.5. (a) A multispecialty ambulatory care clinic licensed  
2 pursuant to paragraph (5) of subdivision (b) of Section 1204 shall  
3 be subject to the following requirements:

4     (1) (A) The clinic shall be owned and operated by a public  
5 entity, the governing body of which shall have full legal authority  
6 and responsibility for the operation of the clinic, including  
7 compliance with all applicable laws and regulations.

8     (B) For purposes of this paragraph, “public entity” includes  
9 the state, the Regents of the University of California, and a county,  
10 city, city and county, district, public authority, public agency, and  
11 any other political subdivision or public corporation in the state.

12     (2) The clinic shall have a single administrator who shall be  
13 responsible to the governing body for all services provided by the  
14 clinic. The administrator of a multispecialty ambulatory care  
15 clinic may be responsible for more than one licensed clinic of any  
16 type only if all of the clinics are operated by the same governing  
17 body.

18     (3) The clinic shall have a single physician designated as the  
19 professional director. The professional director shall, either  
20 individually or in conjunction with an organized medical staff,  
21 review the credentials and delineate the privileges for physicians,  
22 dentists, psychologists, and podiatrists providing services at the  
23 clinic. Privileges shall only be granted to those individuals who  
24 are legally and professionally qualified, and shall be subject to  
25 periodic review and renewal. All surgical privileges shall also be  
26 approved by the professional head of the surgical service.

27     (4) The clinic shall have a single registered nurse who shall be  
28 responsible for nursing services provided throughout the clinic. A  
29 licensed nurse shall be present at the clinic site whenever nursing  
30 services are provided.

31     (5) Sufficient health professionals, including nursing staff,  
32 shall be contracted or employed to furnish the preventive,  
33 diagnostic, and therapeutic services offered by the clinic. These  
34 health personnel shall be qualified in accordance with current  
35 legal, professional, and technical standards and shall be  
36 appropriately licensed, registered, or certified, where required.  
37 The clinic shall ensure that, in addition to meeting licensing,  
38 certification, or other applicable legal requirements, all health  
39 personnel are qualified by training and experience to perform  
40 those services that they are assigned to provide.

1 (6) *Appropriate policies and procedures shall be adopted and*  
2 *implemented, including policies and procedures describing the*  
3 *types and scope of services that the clinic will provide.*

4 (7) *The clinic shall have appropriate space, equipment, and*  
5 *supplies available to provide the services offered and to meet the*  
6 *needs of the particular patients served. To allow the clinic*  
7 *maximum flexibility to use space as necessary to meet patient*  
8 *needs, the clinic may convert space from one service or use to*  
9 *another service or use, either on a full-time or part-time,*  
10 *temporary or permanent basis, without obtaining the approval of,*  
11 *or providing notice to, the department.*

12 (8) *The clinic shall have equipment available for the*  
13 *emergency treatment of patients. The nature and amount of this*  
14 *equipment shall be determined by the professional director in*  
15 *accordance with the scope of services provided by the clinic.*

16 (9) *The clinic shall maintain, with one or more nearby*  
17 *hospitals, written agreements that provide for communication*  
18 *with, transportation of, and admission of clinic patients to the*  
19 *hospital, as appropriate to meet medical emergencies.*

20 (10) *Complete, accurate, and accessible patient health records*  
21 *shall be maintained in accordance with applicable state, federal,*  
22 *and local laws and as appropriate to the types of services provided.*  
23 *Information contained in patient health records shall be*  
24 *confidential and shall be disclosed only in accordance with state,*  
25 *federal, and local laws.*

26 (11) *The clinic shall adopt procedures for identifying and*  
27 *preventing infections and maintaining a safe and sanitary*  
28 *environment.*

29 (12) *If the clinic provides drug distribution services, it shall do*  
30 *so in accordance with applicable state, federal, and local laws. If*  
31 *a pharmacy is located on the clinic premises, the pharmacy shall*  
32 *be licensed by the California State Board of Pharmacy.*

33 (13) *If the clinic provides radiological services, it shall do so*  
34 *in accordance with applicable state, federal, and local laws,*  
35 *including subchapter 4 (commencing with Section 30100) of*  
36 *Chapter 5 of Division 1 of Title 17 of the California Code of*  
37 *Regulations.*

38 (14) *If the clinic provides laboratory services, it shall do so in*  
39 *accordance with applicable state, federal, and local laws.*

1     (15) *If the clinic provides ambulatory surgery services, it shall*  
2 *do all of the following:*

3     (A) *Implement written policies and procedures for handling*  
4 *medical emergencies arising during surgeries.*

5     (B) *Ensure that at least one surgeon has admitting privileges at*  
6 *a local hospital or that a written transfer agreement with a local*  
7 *hospital is in place to ensure the availability of needed hospital*  
8 *services for patients requiring emergency medical care beyond the*  
9 *capability of the clinic.*

10    (C) *Perform only those surgical procedures that can be*  
11 *provided safely in an outpatient setting and for which an overnight*  
12 *stay is not anticipated at the time the procedure is commenced.*

13    (16) *If the clinic provides rehabilitation services, it shall do all*  
14 *of the following:*

15    (A) *Provide rehabilitation services only on the order of a*  
16 *person lawfully authorized to give the order.*

17    (B) *Provide physical, occupational, and speech therapy*  
18 *services only by, or under the supervision of, a qualified physical*  
19 *therapist, occupational therapist, or speech pathologist, as*  
20 *appropriate.*

21    (C) *Establish a treatment program for each patient seen, based*  
22 *on the evaluation of appropriate professionals.*

23    (b) *Notwithstanding any other provision of law, the department*  
24 *may, pursuant to regulation, require a multispecialty ambulatory*  
25 *care clinic to obtain a special permit only to provide the following*  
26 *types of services:*

27       (1) *Chronic renal services.*

28       (2) *Birth services.*

29    SEC. 6. *Section 1204.6 is added to the Health and Safety*  
30 *Code, to read:*

31    1204.6. (a) *The department may adopt, and may, from*  
32 *time-to-time, amend or repeal, in accordance with Chapter 3.5*  
33 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
34 *2 of the Government Code, reasonable rules and regulations as*  
35 *may be necessary or proper for the department to license*  
36 *multispecialty ambulatory care clinics pursuant to paragraph (5)*  
37 *of subdivision (b) of Section 1204. Regulations promulgated*  
38 *hereunder, if any, shall be adopted on a nonemergency basis only,*  
39 *taking into consideration public comments.*

1     **(b)** *Until the department adopts regulations pursuant to*  
2 *subdivision (a), a multispecialty ambulatory care clinic shall be*  
3 *licensed by the department pursuant to paragraph (5) of*  
4 *subdivision (b) of Section 1204 if the public entity responsible for*  
5 *the clinic certifies in writing that the clinic substantially complies*  
6 *with all applicable requirements set forth in this chapter.*

7     **SEC. 7.** *Section 1217 of the Health and Safety Code is*  
8 *amended to read:*

9     1217. **(a)** *(1) An applicant for a license to operate a primary*  
10 *care clinic, as specified in subdivision (a) of Section 1204, ~~which~~*  
11 *or a multispecialty ambulatory care clinic, as specified in*  
12 *paragraph (5) of subdivision (b) of Section 1204, that meets all*  
13 *requirements for licensure under this chapter, except that it*  
14 *proposes to operate its clinic out of an existing facility that does*  
15 *not satisfy all of the applicable building requirements for the*  
16 *physical plant, other than fire and life safety requirements, may be*  
17 *issued a license by the state department if ~~(1) the both of the~~*  
18 *following requirements are met:*

19     **(A)** *The applicant establishes, by evidence satisfactory to the*  
20 *state department, that, where possible and feasible, the applicable*  
21 *building requirements have been met, ~~and (2) the.~~*

22     **(B)** *The applicant submits a plan of modernization that is*  
23 *acceptable to the state department, ~~which and that~~ sets forth the*  
24 *proposed changes to be made, during a period not to exceed three*  
25 *years from date of initial licensure, to bring the applicant's facility*  
26 *into substantial conformance with applicable building*  
27 *requirements. Failure*

28     **(2)** *The failure to complete the plan of modernization as*  
29 *approved and within the time allowed shall constitute a basis for*  
30 *revocation or nonrenewal of the applicant's license unless the*  
31 *applicant earlier applies for and obtains a waiver from the state*  
32 *department. The*

33     **(b)** *The director may waive building requirements for primary*  
34 *care clinics or for multispecialty care clinics where he or she*  
35 *determines that ~~(1) such the~~ requirements cannot be met by an*  
36 *applicant or that they can be met only at an unreasonable and*  
37 *prohibitive cost, ~~(2) such the~~ requirements are not essential to*  
38 *protect the health and safety of the clinic staff or the public it*  
39 *serves, and ~~(3) the~~ granting of the waiver applied for is in the public*  
40 *interest.*

1 (c) Notwithstanding subdivisions (a) and (b), multispecialty  
2 ambulatory care clinics licensed pursuant to paragraph (5) of  
3 subdivision (b) of Section 1204 shall not be required to comply  
4 with any seismic safety standards that are more stringent than  
5 those in place on the date of the building's original construction  
6 or the date of the building's last significant remodeling project.

7 SEC. 8. Section 1248.1 of the Health and Safety Code is  
8 amended to read:

9 1248.1. No association, corporation, firm, partnership, or  
10 person shall operate, manage, conduct, or maintain an outpatient  
11 setting in this state, unless the setting is one of the following:

12 (a) An ambulatory surgical center that is certified to participate  
13 in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395  
14 et seq.) of the federal Social Security Act.

15 (b) Any clinic conducted, maintained, or operated by a  
16 federally recognized Indian tribe or tribal organization, as defined  
17 in Section 450 or 1601 of Title 25 of the United States Code, and  
18 located on land recognized as tribal land by the federal  
19 government.

20 (c) Any clinic directly conducted, maintained, or operated by  
21 the United States or by any of its departments, officers, or  
22 agencies.

23 (d) Any primary care clinic licensed under subdivision (a) and  
24 any surgical clinic *or multispecialty ambulatory clinic* licensed  
25 under subdivision (b) of Section 1204.

26 (e) Any health facility licensed as a general acute care hospital  
27 under Chapter 2 (commencing with Section 1250).

28 (f) Any outpatient setting to the extent that it is used by a dentist  
29 or physician and surgeon in compliance with Article 2.7  
30 (commencing with Section 1646) or Article 2.8 (commencing  
31 with Section 1647) of Chapter 4 of Division 2 of the Business and  
32 Professions Code.

33 (g) An outpatient setting accredited by an accreditation agency  
34 approved by the division pursuant to this chapter.

35 (h) A setting, including, but not limited to, a mobile van, in  
36 which equipment is used to treat patients admitted to a facility  
37 described in subdivision (a), (d), or (e), and in which the  
38 procedures performed are staffed by the medical staff of, or other  
39 health care practitioners with clinical privileges at, the facility and  
40 are subject to the peer review process of the facility but which

1 setting is not a part of a facility described in subdivision (a), (d),  
2 or (e).

3 ~~Nothing~~

4 (i) ~~Nothing~~ in this section shall relieve an association,  
5 corporation, firm, partnership, or person from complying with all  
6 other provisions of law that are otherwise applicable.

7 SEC. 9. Section 14105.19 is added to the Welfare and  
8 Institutions Code, to read:

9 14105.19. (a) Except as set forth in subdivisions (d) and (e),  
10 surgical services provided by multispecialty ambulatory care  
11 clinics shall be paid by the Medi-Cal program at the same rate as  
12 the same services provided by licensed surgical clinics.

13 (b) Except as set forth in subdivisions (d) and (e), primary care  
14 services provided by multispecialty ambulatory care clinics shall  
15 be paid by the Medi-Cal program at the same rates as the same  
16 services provided by community and free clinics.

17 (c) (1) Except as set forth in subdivisions (d) and (e), all types  
18 of care, other than surgical services and primary care services,  
19 provided by a multispecialty ambulatory care clinic shall be paid  
20 by the Medi-Cal program at the highest rates that Medi-Cal pays  
21 for the same service when provided in another ambulatory care  
22 setting.

23 (2) For purposes of this subdivision, “ambulatory care setting”  
24 means an establishment such as a clinic, private physician’s or  
25 dentist’s office, or freestanding laboratory licensed or certified to  
26 provide medical care or services. “Ambulatory care setting” does  
27 not include a health facility required to be licensed pursuant to  
28 Chapter 2 (commencing with Section 1250) of Division 2 of the  
29 Health and Safety Code.

30 (d) Multispecialty ambulatory care clinics eligible for  
31 cost-based reimbursement under a medicaid demonstration  
32 project authorized under Section 1115 of the Social Security Act  
33 (42 U.S.C. Sec. 1315) shall receive cost-based reimbursement as  
34 set forth in the Medi-Cal state plan.

35 (e) The department may negotiate one or more all inclusive per  
36 visit rates with any willing multispecialty ambulatory care clinic.  
37 These rates may apply to all services provided by the clinic, or may  
38 apply only to particular classes of services such as ambulatory  
39 surgery or rehabilitation therapy.



1 (f) A multispecialty ambulatory care clinic that qualifies as a  
2 federally qualified health center may be paid on the same basis as  
3 other federally qualified health centers.

4 SEC. 10. Section 14105.28 is added to the Welfare and  
5 Institutions Code, to read:

6 14105.28. (a) Each eligible facility, as described in  
7 subdivision (b), may, in addition to the rate of payment that the  
8 facility would otherwise receive for skilled nursing services,  
9 receive supplemental Medi-Cal reimbursement to the extent  
10 provided in this section.

11 (b) A facility shall be eligible for supplemental reimbursement  
12 only if the facility has all of the following characteristics:

13 (1) Provides services to Medi-Cal beneficiaries.

14 (2) Is licensed as a skilled nursing facility pursuant to  
15 subdivision (c) of Section 1250 of the Health and Safety Code.

16 (3) Is owned or operated by a county, city, city and county, or  
17 health care district organized pursuant to Chapter 1 (commencing  
18 with Section 32000) of Division 23 of the Health and Safety Code.

19 (c) An eligible facility's supplemental reimbursement pursuant  
20 to this section shall be calculated and paid as follows:

21 (1) The supplemental reimbursement to an eligible facility, as  
22 described in subdivision (b), shall be equal to the amount of  
23 federal financial participation received as a result of the claims  
24 submitted pursuant to paragraph (2) of subdivision (g).

25 (2) Costs associated with the provision of subacute services  
26 pursuant to Section 14132.25 and costs associated with the  
27 provision of services and supplies that are paid separately  
28 pursuant to Section 51511(c) of Title 22 of the California Code of  
29 Regulations shall not be certified for supplemental reimbursement  
30 pursuant to this section.

31 (3) The supplemental Medi-Cal reimbursement provided by  
32 this section shall be distributed under a payment methodology  
33 based on skilled nursing services provided to Medi-Cal patients at  
34 the eligible facility, either on a per diem basis, a per discharge  
35 basis, or any other federally permissible basis. The department  
36 shall seek approval from the federal Centers for Medicare and  
37 Medicaid Services for the payment methodology to be utilized, and  
38 shall not make any payment pursuant to this section prior to  
39 obtaining that approval.



1 (d) (1) It is the Legislature's intent in enacting this section to  
2 provide the supplemental reimbursement described in this section  
3 without any expenditure from the General Fund, except for the  
4 costs of administering the program.

5 (2) The state share of the supplemental reimbursement  
6 submitted to the federal Centers for Medicare and Medicaid  
7 Services for purposes of claiming federal financial participation  
8 shall be paid only with funds from the governmental entities  
9 described in paragraph (3) of subdivision (b) and certified to the  
10 state as provided in subdivision (e).

11 (e) The particular governmental entity, described in paragraph  
12 (3) of subdivision (b), on behalf of any eligible facility shall do all  
13 of the following:

14 (1) Certify, in conformity with the requirements of Section  
15 433.51 of Title 42 of the Code of Federal Regulations, that the  
16 claimed expenditures for nursing facility services are eligible for  
17 federal financial participation.

18 (2) Provide evidence supporting the certification as specified  
19 by the department.

20 (3) Submit data as specified by the department to determine the  
21 appropriate amounts to claim as expenditures qualifying for  
22 federal financial participation.

23 (4) Keep, maintain, and have readily retrievable, any records  
24 specified by the department to fully disclose reimbursement  
25 amounts to which the eligible facility is entitled, and any other  
26 records required by the federal Centers for Medicare and Medicaid  
27 Services.

28 (f) The department may require that any governmental entity,  
29 described in paragraph (3) of subdivision (b), seeking  
30 supplemental reimbursement under this section enter into an  
31 interagency agreement with the department for the purpose of  
32 implementing this section.

33 (g) (1) The department shall promptly seek any necessary  
34 federal approvals, including a federal medicaid waiver, for the  
35 implementation of this section. If necessary to obtain federal  
36 approval, the department may limit the program to those costs that  
37 are allowable expenditures under Title XIX of the federal Social  
38 Security Act (Subchapter 19 (commencing with Section 1396) of  
39 Chapter 7 of Title 42 of the United States Code). If federal approval

1 *is not obtained for implementation of this section, this section shall*  
2 *become inoperative.*

3 *(2) The department shall submit claims for federal financial*  
4 *participation for the expenditures for the services described in*  
5 *subdivision (e) that are allowable expenditures under federal law.*

6 *(3) The department shall, on an annual basis, submit any*  
7 *necessary materials to the federal government to provide*  
8 *assurances that claims for federal financial participation will*  
9 *include only those expenditures that are allowable under federal*  
10 *law.*

11 *(h) In the event there is a final judicial determination by any*  
12 *court of appellate jurisdiction or a final determination by the*  
13 *administrator of the federal Centers for Medicare and Medicaid*  
14 *Services that the supplemental reimbursement provided in this*  
15 *section must be made to any facility not described in this section,*  
16 *this section shall become immediately inoperative.*

17 *(i) All funds expended pursuant to this section are subject to*  
18 *review and audit by the department. To the extent that the audit*  
19 *reveals that a particular governmental entity described in*  
20 *paragraph (3) of subdivision (b) inaccurately determined the costs*  
21 *that were eligible for federal financial participation, that*  
22 *governmental entity shall return to the department any*  
23 *supplemental reimbursement received as a result of the incorrect*  
24 *determination and the department shall be held harmless from any*  
25 *related federal disallowances. The governmental entity shall have*  
26 *the right to appeal any adverse audit findings using the appeal*  
27 *process established pursuant to Section 14171.*

28 *SEC. 11. Section 14110 of the Welfare and Institutions Code*  
29 *is amended to read:*

30 *14110. (a) No payment for care or services shall be made*  
31 *under Medi-Cal to a medical or health care facility unless it has*  
32 *been certified by the department for participation, and it meets one*  
33 *of the following:*

34 ~~*(a)*~~

35 *(1) It is licensed by the department.*

36 ~~*(b)*~~

37 *(2) It is licensed by a comparable agency in another state.*

38 ~~*(c)*~~

39 *(3) It is exempt from licensure.*

40 ~~*(d)*~~

(4) It is operated by the Regents of the University of California.

~~(e)~~

(5) It meets the utilization review plan criteria for certification or is certified as an institutional provider of services under Title XVIII of the ~~Federal~~ *federal* Social Security Act and regulations issued thereunder.

~~Nothing~~

(b) *Nothing* in this section shall preclude payments for care for aged patients in medical facilities or institutions operated or licensed by the department, or the State Department of Mental Health, State Department of Developmental Services, State Department of Social Services, or Department of Rehabilitation.

~~The~~

(c) *The* department shall certify facilities licensed pursuant to subdivision (e) of Section 1250 of the Health and Safety Code for participation in the program within 30 calendar days of receipt of a complete application *for certification* or *of the* date of licensure, whichever is greater, if the facility meets all the requirements for certification. The department, for claims purposes only, shall issue a provider number to facilities ~~which~~ *that* meet all certification requirements within 30 calendar days of the date of certification or 60 calendar days of licensure, whichever is greater.

(d) *Notwithstanding subdivisions (a) and (c), multispecialty ambulatory care clinics shall, upon licensure pursuant to paragraph (5) of subdivision (b) of Section 1204 of the Health and Safety Code, and in accordance with Section 1204.6 of the Health and Safety Code, be automatically certified to participate in and receive payments under the Medi-Cal program and shall not be required to wait 30 days after the date of application for certification or of licensure for certification to be effective. Unless otherwise required by applicable federal law, multispecialty ambulatory care clinics shall not be required to be certified to participate in Medicare in order to participate in the Medi-Cal program.*

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Local governments are experiencing serious budgetary shortfalls that have resulted in the imminent closure of certain

1 inpatient health facilities, which would leave areas of the state  
2 without access to adequate health care. Thus, in order to establish  
3 a new licensing category and procedure that would allow an  
4 inpatient health facility that is no longer able to provide inpatient  
5 services and that would otherwise be required to terminate  
6 operations, to continue operating under the new licensing category  
7 as a multiservice ambulatory care center and provide as many  
8 critical medical services as the facility is qualified and able to  
9 provide at the earliest possible time, it is necessary that this act take  
10 effect immediately.

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